

TAB D

VOLUME 1

PAGE: 1-82

EXHIBITS: 1-9

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

CYCLE-CRAFT CO., INC.) CIVIL ACTION
 D/B/A BOSTON HARLEY-DAVIDSON/BUELL,) NO. 11402NMG
 PLAINTIFF,)
 v.)
 HARLEY-DAVIDSON MOTOR COMPANY, INC.,)
 AND BUELL DISTRIBUTION COMPANY, LLC,)
 DEFENDANTS.)

DEPOSITION OF JASON MARASCA

DATE: APRIL 28, 2005

TIME: 10:06 A.M.

PLACE: BINGHAM MCCUTCHEN

150 FEDERAL STREET

BOSTON, MA 02110

MEDEIROS STENO & VIDEO GROUP**"FOR THE TRAVELING LITIGATOR SINCE 1988"*****Boston: 617.590.9767*****Depositions*****New York: 646.413.4499*****Arbitrations*****Florida 305.321.7414*****E-transcript*****E-mail: depo@gomeideiros.com*****V ideo*****MA *CT *NJ *NY *FL**

1 A: Please.

2 Q: During 2003 did Lee Custom Cycle purchase
3 eight new Harley-Davidson motorcycles from
4 Cycle-Craft?

5 MR. REHNQUIST: Objection.

6 A: Yes.

7 Q: Were you the salesman on that deal?

8 A: Yes.

9 Q: And to the best of your knowledge did Lee
10 Custom Cycle pay for those new Harley-Davidson
11 motorcycles?

12 A: Yes.

13 Q: Did you negotiate the sales price?

14 A: Yes.

15 Q: With whom did you negotiate the sales
16 price?

17 A: Jeff Christensen.

18 Q: Did you have an understanding as to what
19 his relationship with the company Lee Custom was?

20 A: Yes.

21 Q: What?

22 A: Sales Manager, I believe.

23 Q: Was a sales price for the eight motorcycles
24 arrived at?

1 A: Yes.

2 Q: Can you tell us how it was arrived at?

3 A: Well, there was a price because there was
4 an MSRP sale that we had at Cycle-Craft and he paid
5 the MSRP price on all eight motorcycles.

6 Q: Was there any process of negotiation or did
7 you just tell him you can get bikes --

8 A: Lee Custom Cycle?

9 MR. BERKOWITZ: Yes.

10 MR. REHNQUIST: Object to the form.

11 A: I called him and told him that's the set
12 prices. These are the prices and he agreed.

13 Q: Did anything in particular lead you to call
14 him?

15 A: Yes.

16 Q: What?

17 A: I was told to sell as many bikes as I
18 could. The day before I was told to sell as many
19 bikes as I could. Take the book home and make as
20 many phone calls as I can that night to sell as many
21 bikes as I could on that following day, which I
22 believe was a Saturday.

23 Q: And who told you that?

24 A: Ron Buchbaum.

1 Q: How were you aware of Lee Custom Cycle?

2 A: I've done business with Lee Custom Cycle in
3 the past, sold them a couple of motorcycles.

4 Q: While you were at Cycle-Craft?

5 A: Yes.

6 Q: To your knowledge had Lee Custom Cycle
7 purchased, other motorcycles from Cycle-Craft besides
8 the ones that you've identified?

9 MR. REHNQUIST: Objection.

10 Q: In other words, the eight on the deal that
11 you had and then these others that you just
12 mentioned?

13 MR. REHNQUIST: Object to the form.

14 A: Yes. There was motorcycles before the
15 eight.

16 Q: Do you know how many?

17 A: No.

18 Q: Would you characterize Lee Custom as a
19 regular customer of Cycle-Craft?

20 MR. REHNQUIST: Object to the form.

21 A: Yes.

22 Q: Do you have an understanding as to whether
23 Mr. Buchbaum knew who Lee Custom Cycle was?

24 MR. REHNQUIST: Object to the form.

1 A: Yes.

2 Q: How do you have that understanding?

3 A: That he knew that Lee Custom Cycle bought
4 motorcycles?

5 MR. BERKOWITZ: Yes.

6 THE WITNESS: Because I gave him eight
7 bills of sale that following morning with those eight
8 motorcycles, individual bills of sales for eight
9 motorcycles and the purchaser was Lee Custom Cycles.

10 MR. BERKOWITZ: We'll come back to that
11 in a minute.

12 Q: As of the time that you first contacted Mr.
13 Christensen about purchasing eight new motorcycles
14 did you have an understanding as to whether Mr.
15 Buchbaum knew who Lee Custom Cycle was?

16 MR. REHNQUIST: Object to the form.

17 A: I don't know if Ron knew Lee Custom Cycle
18 existed, so I do not know that.

19 Q: After you spoke with Mr. Christensen did
20 you write up bills of sale?

21 A: Yes, the following morning.

22 Q: Was this in July of 2003?

23 A: Yes, it was.

24 Q: And in whose name did you write up the

1 **bills of sale?**

2 A: Lee Custom Cycles.

3 **Q: Was this a single bill of sale or multiple**
4 **bills of sale, one for each vehicle?**

5 A: One for each. Eight individual bills of
6 sale.

7 **Q: And after you wrote them up what did you**
8 **do, if anything?**

9 A: After I wrote the bills of sales up I went
10 into Ron's office and showed him the eight bills of
11 sale.

12 **Q: What did you tell him?**

13 A: "I sold eight bikes last night."

14 **Q: What did he say?**

15 A: "Good job."

16 **Q: Was there any further discussion?**

17 A: Yeah, I gave him the bills of sales and he
18 said to call back Lee Custom Cycles and get eight
19 individual names and put the individual names on the
20 bills of sale.

21 **Q: Was there any further discussion in that**
22 **conversation that you can recall?**

23 A: And he said, "Get eight different credit
24 cards and run it for \$500.00 a piece for the

1 deposit."

2 Q: Anything else that you remember in that
3 conversation?

4 A: No.

5 Q: What was the next thing that you did?

6 A: I called up Lee Custom Cycles and asked
7 them to give me eight different names to put the
8 motorcycles in.

9 Q: Was this Mr. Christensen?

10 A: That was Jeff Christensen, yes.

11 Q: What did you say to Mr. Christensen and
12 what did he say to you?

13 A: I told him that he needed eight individual
14 names for the bikes and I needed eight different
15 \$500.00 deposits for them. He asked me why and I
16 told him that that's what my manager wants to do.

17 Q: At the time did you have an understanding
18 as to why Mr. Buchbaum asked you to do that?

19 A: I thought he was just making it hard for
20 me.

21 Q: What happened next?

22 A: I got eight individual names and wrote them
23 on the bills of sales.

24 Q: How did you get the names?